

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
KAMIL EMIL BAHOU, M.D.)
aka STEVE BAHOU AND)
K. STEVE BAHOU)
Certificate No. A-29428)
)
Respondent.)
_____)

D-5472

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on June 2, 1995.

IT IS SO ORDERED May 4, 1995.

By:

Ira Lubell
IRA LUBELL, M.D.
Chairperson, Panel A
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 DIANE M. L. TAN,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, 5th Floor
4 Los Angeles, California 90013
Telephone: (213) 897-2557

5 Attorneys for Complainant
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7

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation)
14 Against:)

No. D-5472

15 KAMIL EMIL BAHOU, M.D.,)
16 aka STEVE BAHOU and K. STEVE BAHOU)
17 P. O. Box 50047)
Pasadena, California 91105)

OAH No. L-63519

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

18 Physician's and Surgeon's)
19 Certificate No. A 29428)
20
21 Respondent.)

22 **IT IS HEREBY STIPULATED AND AGREED** by and between
23 Complainant Dixon Arnett, Executive Director of the Medical Board
24 of California, by and through Daniel E. Lungren, Attorney General
25 of the State of California, by Diane M. L. Tan, Deputy Attorney
26 General, attorneys for Complainant, Respondent Kamil Emil Bahou,
27 M.D., and Theodora Poloynis-Engen, Esq., attorney for Respondent,
that the following matters are true:

PARTIES

1. Complainant Dixon Arnett, Executive Director of

1 the Medical Board of California (hereinafter referred to as "the
2 Board"), is represented in this matter by and through Daniel E.
3 Lungren, Attorney General of the State of California, by
4 Diane M. L. Tan, Deputy Attorney General.

5 2. Respondent Kamil Emil Bahou, M. D. (hereinafter
6 referred to as "Respondent"), is represented in this matter by
7 Theodora Poloynis-Engen, Attorney at Law, 272 South Los Robles
8 Avenue, Pasadena, California 91101.

9 3. On October 1, 1993, Complainant Dixon Arnett, in
10 his official capacity as Executive Director of the Board, filed
11 an Accusation against Respondent in Case No. D-5472, charging
12 Respondent with having engaged in unprofessional conduct,
13 including unlawfully using, prescribing or administering to
14 himself controlled substances or dangerous drugs, prescribing
15 drugs without a legitimate medical purpose, committing acts
16 involving dishonesty or corruption, and engaging in other
17 unlawful acts in violation of the Medical Practice Act (Bus. &
18 Prof. Code, § 2000 et seq.) and other applicable laws and
19 regulations relating to the practice of medicine, including
20 psychiatry. A copy of the Accusation is attached hereto as
21 "Attachment 1" and incorporated herein by reference.

22 4. The Accusation, Statement to Respondent, Request
23 for Discovery, Notice of Defense Form, and a copy of Government
24 Code sections 11507.5, 11507.6 and 11507.7 were served on
25 Respondent by certified mail on October 4, 1993. The Accusation
26 packet was returned to the Medical Board "unclaimed". The
27 Accusation packet was served again on Respondent by certified

1 mail on April 15, 1994. A return receipt was signed on behalf of
2 Respondent on or about April 22, 1994. Respondent filed a Notice
3 of Defense on or about May 4, 1994.

4 5. On August 26, 1975, Respondent was issued
5 Physician's and Surgeon's Certificate No. A 29428 by the Board.
6 At all times relevant herein, said certificate has been valid and
7 has an expiration date of January 31, 1996.

8 6. Complainant and Respondent want to resolve this
9 matter without a hearing or further administrative proceedings.

10 ADVISEMENT AND WAIVERS

11 7. Respondent has fully read and reviewed and
12 consulted with his counsel the charges and allegations contained
13 in the Accusation in Case No. D-5472. Respondent is fully aware
14 of his legal rights and the effects of this Stipulated Settlement
15 and Disciplinary Order.

16 8. Respondent fully understands that the charges
17 alleged in the Accusation, if proven at a hearing, constitute
18 sufficient causes for taking disciplinary action against his
19 license as a physician and surgeon. Respondent is fully aware of
20 his right to retain and consult with his own counsel at his own
21 expense; his right to a hearing on the charges contained in said
22 Accusation; his right to the issuance of subpoenas to compel the
23 attendance of witnesses and the production of books, documents,
24 or other things in his defense and as proof of mitigation; his
25 right to testify and present relevant evidence; his right to
26 confront and cross-examine witnesses testifying against him; and
27 his right to reconsideration, appeal and any and all other rights

1 which may be accorded him under the California Administrative
2 Procedure Act (Gov. Code, § 11500 et seq.) and other applicable
3 laws.

4 Respondent hereby freely, voluntarily, knowingly and
5 intelligently waives each and every one of these rights and
6 agrees that the Accusation in this matter may be resolved
7 pursuant to this Stipulated Settlement and Disciplinary Order.

8 **SUFFICIENT CAUSES EXIST FOR TAKING DISCIPLINARY ACTION**

9 9. For purposes of this Stipulated Settlement and
10 Disciplinary Order and any future proceedings involving the
11 Board, Respondent admits that the allegations contained in the
12 Accusation in Case No. D-5472 constitute sufficient causes for
13 the Board to subject him to disciplinary action regarding his
14 license as a physician and surgeon and to order that his
15 physician's and surgeon's license be revoked. Respondent agrees
16 to be bound by the Board's Disciplinary Order as set forth below.

17 10. Respondent has not been forced, coerced,
18 threatened or induced in any way into entering into this
19 stipulation.

20 **DISCIPLINARY ORDER**

21 11. Based upon the foregoing admissions and other
22 stipulated matters, the parties stipulate and agree that the
23 Board may, without further notice or formal proceedings, issue
24 and enter the following Disciplinary Order:

25 IT IS HEREBY ORDERED that Physician's and Surgeon's
26 Certificate Number A 29428 issued to Respondent Kamil Emil Bahou,
27 M.D. is revoked. However, said revocation is stayed and

1 Respondent is placed on probation for five (5) years upon the
2 following terms and conditions:

3 A. SUSPENSION. As part of probation, Respondent is
4 suspended from the practice of medicine for thirty (30) days
5 beginning on the effective date of the Board's decision.

6 B. CONTROLLED AND DANGEROUS DRUGS - SURRENDER OF DEA
7 PERMIT. Respondent is prohibited from practicing medicine until
8 Respondent provides documentary proof to the Division of Medical
9 Quality of the Medical Board of California (hereinafter referred
10 to as "the Division") or its designee that Respondent's DEA
11 permit has been surrendered to the Drug Enforcement
12 Administration for cancellation, together with any triplicate
13 prescription forms and federal order forms. Thereafter,

14 Respondent shall not reapply for a new DEA permit without the
15 prior written consent of the Division or its designee. *However, Respondent*
16 *may reapply for a DEA permit which only permits him to order psychotropic drugs for patients in*
a hospital or skilled nursing facility. The Board will not open the application for such a restricted DEA permit

17 C. PSYCHIATRIC EVALUATION. Within thirty (30) days
18 from the effective date of the Board's Decision, and on a
19 periodic basis thereafter as may be required by the Division or
20 its designee, Respondent shall undergo at his own expense a
21 psychiatric evaluation and psychological testing, if deemed
22 necessary, by a Division-appointed psychiatrist who shall furnish
23 a written psychiatric report directly to the Division or its
24 designee which indicates whether Respondent is capable of
25 practicing medicine safely.

26 Respondent shall execute a written release authorizing
27 the evaluator to release all information to the Division or its
designee. The completed evaluation is the sole property of the

1 Division.

2 Respondent shall not engage in the practice of medicine
3 until notified by the Division or its designee of its
4 determination that Respondent is mentally fit to practice
5 medicine safely.

6 If the Division or its designee concludes from the
7 results of the evaluation that Respondent would benefit from
8 ongoing psychotherapy, Respondent shall comply with the
9 Division's directives in that regard.

10 Respondent shall pay for all evaluation, testing and
11 treatment costs. Failure to pay such costs will be considered a
12 violation of probation.

13 If at any time during probation, Respondent is notified
14 by the Division or its designee that the Division-appointed
15 psychiatrist has determined that he is not capable of practicing
16 medicine safely, Respondent immediately shall cease practicing
17 medicine. Respondent shall not resume practicing medicine until
18 notified in writing by the Division or its designee of its
19 determination that Respondent is capable of practicing medicine
20 safely.

21 D. PSYCHOTHERAPY. If Respondent is required by the
22 Division or its designee to undergo psychological counseling,
23 psychiatric treatment or any other psychotherapy, Respondent
24 shall within thirty (30) days of the requirement notice submit to
25 the Division or its designee for its prior approval the name and
26 qualifications of a psychotherapist of Respondent's choice. Upon
27 approval of the psychotherapist by the Division or its designee,

1 Respondent shall undergo and continue treatment until he is
2 notified by the Division or its designee that no further
3 psychological counseling, psychiatric treatment or any other
4 psychotherapy is necessary.

5 Respondent shall have the treating psychotherapist
6 submit written quarterly status reports to the Division or its
7 designee indicating whether Respondent has the ability to
8 practice medicine safely.

9 Respondent shall pay for all counseling and treatment
10 costs. Failure to pay such costs will be considered a violation
11 of probation.

12 E. MEDICAL EVALUATION. Within thirty (30) days from
13 the effective date of the Board's Decision, and on a periodic
14 basis thereafter as may be required by the Division or its
15 designee, Respondent shall undergo at his own expense a medical
16 evaluation by a Division-appointed physician who shall furnish a
17 written medical report directly to the Division or its designee
18 which indicates whether Respondent is capable of practicing
19 medicine safely.

20 Respondent shall execute a written release authorizing
21 the physician to release all information to the Division or its
22 designee. The completed evaluation is the sole property of the
23 Division.

24 Respondent shall pay for all evaluation costs. Failure
25 to pay such costs will be considered a violation of probation.

26 Respondent shall not engage in the practice of medicine
27 until notified by the Division or its designee of its

1 determination that Respondent is medically fit to practice
2 medicine safely.

3 If at any time during probation, Respondent is notified
4 by the Division or its designee that the Division-approved
5 physician has determined that he is not capable of practicing
6 medicine safely, Respondent immediately shall cease practicing
7 medicine. Respondent shall not resume practicing medicine until
8 notified in writing by the Division or its designee of its
9 determination that Respondent is medically fit to practice
10 medicine safely.

11 F. MEDICAL TREATMENT. If Respondent is required by
12 the Division or its designee to undergo medical treatment,
13 Respondent shall within thirty (30) days of the requirement
14 notice submit to the Division or its designee for its prior
15 approval the name and qualifications of a physician of
16 Respondent's choice. Upon approval of the treating physician,
17 Respondent shall undergo and continue medical treatment until he
18 is notified by the Division or its designee that no further
19 medical treatment is necessary.

20 Respondent shall have the treating physician submit
21 written quarterly status reports to the Division or its designee
22 which indicates whether Respondent is capable of practicing
23 medicine safely.

24 Respondent shall pay for all treatment costs. Failure
25 to pay such costs will be considered a violation of probation.

26 G. DIVERSION PROGRAM. Upon the effective date of the
27 Board's Decision, Respondent shall immediately enroll and

1 participate in the Division's Diversion Program until the
2 Division or its designee determines that further treatment and
3 rehabilitation are no longer necessary. Quitting the program
4 without permission or being expelled for cause shall constitute a
5 violation of probation by Respondent.

6 H. ABSTAIN FROM USE OF DRUGS. Respondent shall
7 abstain completely from the personal use or possession of
8 controlled substances as defined in the California Uniform
9 Controlled Substances Act, and dangerous drugs as defined by
10 Section 4211 of the Business and Professions Code, or any drugs
11 requiring a prescription.

12 Orders forbidding Respondent from personal use or
13 possession of controlled substances or dangerous drugs do not
14 apply to medications lawfully prescribed to Respondent for a bona
15 fide illness or condition by another practitioner.

16 I. BIOLOGICAL FLUID TESTING. Respondent shall
17 immediately submit to biological fluid testing, at Respondent's
18 cost, upon the request of the Division or its designee.

19 J. MAINTAIN RECORD OF CONTROLLED DRUGS. Respondent
20 shall maintain a record of all controlled substances or dangerous
21 drugs prescribed, dispensed or administered to him by his
22 physicians during probation, showing all the following: 1) the
23 name and address of the physician, 2) the date of the
24 prescription, 3) the character and quantity of controlled
25 substances or dangerous drugs involved, and 4) the indications
26 and diagnosis for which the controlled substance or dangerous
27 drug was furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Division or its designee, upon request.

K. RESTITUTION. Within sixty (60) days from the effective date of the Board's Decision, Respondent shall pay restitution in the amount of \$1,500.00 to a nonprofit substance abuse prevention program and provide written proof of such payment to the Division or its designee.

L. EDUCATION COURSE. Within ninety (90) days from the effective date of the Board's Decision, Respondent shall submit to the Division or its designee for its prior approval an educational program or courses related to appropriate prescribing and pharmacology and prevention of substance abuse which shall not be less than 40 hours during the first year of probation. This program shall be in addition to the continuing medical education requirements for re-licensure.

Following the completion of each course, the Division or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide to the Division or its designee written proof of attendance and successful completion of each course.

M. ETHICS. Within sixty (60) days from the effective date of the Board's Decision, Respondent shall submit to the Division or its designee for its prior approval a course in Ethics, which Respondent shall successfully complete during the first year of probation.

1 N. MONITORING. Within thirty (30) days from the
2 effective date of the Board's Decision, Respondent shall submit
3 to the Division or its designee for its prior approval a plan of
4 practice in which Respondent's practice shall be monitored by
5 another physician in Respondent's field of practice, who shall
6 provide periodic written reports to the Division or its designee
7 which indicates whether Respondent is capable of practicing
8 medicine safely.

9 If the monitor resigns or is no longer available,
10 Respondent shall, within fifteen (15) days of such resignation or
11 unavailability, submit a request to the Division or its designee
12 to have a new monitor appointed, through nomination by Respondent
13 and approval by the Division or its designee.

14 Respondent shall pay for all monitoring costs.

15 O. COST RECOVERY. Respondent shall pay to the Board
16 the sum of Four Thousand Five Hundred Dollars (\$4,500.00) for the
17 costs of the investigation and prosecution of the above-entitled
18 matter. Such sum shall be paid in full as follows:

19 *90 days* Within ^{ninety (90)}~~thirty (30)~~ days from the effective date of the
20 Board's Decision, Respondent shall commence making quarterly
21 payments of such sum to the Board payable in the amount of
22 \$1,125.00 each and every three months until the total amount of
23 \$4,500.00 is paid in full.

24 The payment of these costs by Respondent is not tolled
25 by his practice or residency outside of California.

26 In the event Respondent fails to timely pay the total
27 amount of the investigation and prosecution costs, such failure

1 shall constitute a violation of probation.

2 P. RESTRICTION OF PRACTICE. Respondent shall not be
3 employed or function as a supervising physician and surgeon or as
4 a supervising psychiatrist during the period of probation.

5 Respondent shall be prohibited from practicing medicine
6 and/or psychiatry involving the care and treatment of children.
7 Respondent shall immediately inform applicable patients that he
8 is unable to engage in such practice of medicine and/or
9 psychiatry.

10 Q. OBEY ALL LAWS. Respondent shall obey all federal,
11 state, and local laws, and all rules and regulations governing
12 the practice of medicine in California.

13 R. QUARTERLY REPORTS. Respondent shall submit
14 quarterly declarations under penalty of perjury on forms provided
15 by the Division or its designee, stating whether there has been
16 compliance with all the conditions of probation.

17 S. SURVEILLANCE PROGRAM. Respondent shall comply with
18 the Division's probation surveillance program.

19 T. INTERVIEW WITH MEDICAL CONSULTANT. Respondent
20 shall appear in person for interviews with the Division's medical
21 consultant or its designee upon request at various intervals and
22 with reasonable notice.

23 U. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE.
24 The period of probation shall not run during the time Respondent
25 is residing or practicing outside the jurisdiction of California.
26 If at any time during probation Respondent moves out of the
27 jurisdiction of California to reside or practice elsewhere,

1 either temporarily or permanently, Respondent is required to
2 immediately notify the Division in writing of the date of
3 departure from this state within ten (10) days of such departure
4 from this state and the date of return, if any, within ten (10)
5 days of his return to this state.

6 V. VIOLATION OF PROBATION. If Respondent violates
7 probation in any respect, the Division, after giving Respondent
8 notice and the opportunity to be heard, may revoke probation and
9 carry out the disciplinary order that was stayed.

10 If an accusation or petition to revoke probation is
11 filed against Respondent during probation, the Division shall
12 have continuing jurisdiction until the matter is final, and the
13 period of probation shall be extended until the matter is final.

14 No petition for modification or termination of
15 probation shall be considered while there is an accusation or
16 petition to revoke probation pending against Respondent.

17 W. COMPLETION OF PROBATION. Upon successful
18 completion of probation, Respondent's physician's and surgeon's
19 certificate will be fully restored.

20 CONTINGENCY PROVISION

21 12. This Stipulated Settlement and Disciplinary Order
22 shall be subject to the approval of the Board. If the Board
23 fails to adopt this Stipulated Settlement and Disciplinary Order
24 as its Decision, this Stipulated Settlement and Disciplinary
25 Order shall become null and void and have no force or effect on
26 any of the parties, and be inadmissible in any legal action
27 between the parties.

1 Kamil Emil Bahou, M.D.

2 DATED: Feb 23, 1995.

3
4 Theodora Polynis Eng -
5 THEODORA POLOYNIS-ENGEN
6 Attorney at Law

7 Attorney for Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary
10 Order is hereby respectfully submitted for consideration by the
11 Medical Board of California, Division of Medical Quality.

12 DATED: February 23, 1995.

13
14 DANIEL E. LUNGREN, Attorney General
of the State of California

15 Diane M. L. Tan
16 DIANE M. L. TAN
17 Deputy Attorney General

18 Attorneys for Complainant
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of the State of California
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9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation)
Against:)

No. D-5472

13 KAMIL EMIL BAHOU, M.D.,)
14 aka STEVE BAHOU and)
K. STEVE BAHOU)
15 4837 Monte Vista)
Los Angeles, California 90042)

A C C U S A T I O N

16 Physician's and Surgeon's)
17 Certificate No. A 29428)

18 Respondent.)

19 Complainant Dixon Arnett, in his official capacity as
20 Executive Director of the Medical Board of California (the
21 Board), alleges as follows:

22 **PRELIMINARY STATEMENT**

23 1. By this Accusation, Complainant charges Respondent
24 Kamil Emil Bahou, M.D., aka Steve Bahou and K. Steve Bahou,
25 (Respondent) with engaging in unprofessional conduct, which
26 includes unlawfully using, prescribing or administering to
27 himself controlled substances or dangerous drugs; prescribing

1 drugs without a legitimate medical purpose; prescribing dangerous
2 drugs without a good faith prior examination and medical
3 indication; committing repeated acts of clearly excessive
4 prescribing or administering of drugs or treatment; making false
5 statements; committing acts involving dishonesty or corruption;
6 illegally obtaining or possessing controlled substances and
7 dangerous drugs; and committing other unlawful acts in violation
8 of the Medical Practice Act and other applicable laws and
9 regulations relating to the practice of medicine, including
10 psychiatry.

11 2. Respondent, a licensed physician who is involved in
12 the practice of psychiatry, particularly child psychiatry, has
13 been continuously prescribing to himself Darvon, a narcotic pain
14 reliever drug, and other controlled substances and dangerous
15 drugs for several years. He has a history of drug abuse and has
16 received care or treatment at several medical facilities for poly
17 substance dependency. He has left some of those facilities
18 against medical advice.

19 After being discharged from such facilities where he
20 had received care or treatment for drug dependency, Respondent
21 continued to abuse controlled substances and dangerous drugs.

22 In addition, Respondent has excessively prescribed
23 numerous controlled substances and dangerous drugs using his own
24 name or false names and making misrepresentations to obtain such
25 drugs. The controlled substances and dangerous drugs that
26 Respondent repeatedly prescribed and had filled for his own use
27 were drugs which he knew or should have known are extensively

1 abused and known to cause drug dependency and other adverse
2 effects.

3 Respondent also issued and obtained such prescriptions
4 without a good faith prior examination, medical indication or a
5 legitimate medical purpose. His use of false statements or names
6 to obtain controlled substances or dangerous drugs for his own
7 use constituted acts of dishonesty or corruption and other
8 violations of law.

9 3. Respondent's commission of such acts which
10 constitute unprofessional conduct warrants the issuance of an
11 order by the Division of Medical Quality that Respondent be
12 subjected to disciplinary action, including an order that his
13 physician's and surgeon's certificate be suspended or revoked.

14 PARTIES

15 4. Complainant, Dixon Arnett, is the Executive
16 Director of the Medical Board of California. Complainant brings
17 this Accusation solely in his official capacity.

18 5. On or about August 26, 1975, the Board issued
19 Physician's and Surgeon's Certificate No. A 29428 to Kamil Emil
20 Bahou, M.D. At all times relevant herein, said certificate has
21 been valid and has an expiration date of January 31, 1994.

22 JURISDICTION

23 6. Pursuant to Business and Professions Code sections
24 2004, 2220, 2227 and 2234,^{1/} the Division of Medical Quality (the
25 Division), a division of the Medical Board of California, is
26

27 1. Except as otherwise indicated, all statutory
references are to the Business and Professions Code.

1 authorized to take disciplinary action against any licensed
2 physician and surgeon who is found guilty of violating any of the
3 provisions of the Medical Practice Act (Bus. & Prof. Code, § 2000
4 et seq.), the regulations relating to the practice of medicine
5 (Cal. Code of Regs., tit. 16, § 1300), or other applicable laws
6 or regulations.

7 7. Section 2227 of the Code provides that when a
8 licensee is found guilty of violating any of the provisions of
9 the Medical Practice Act or applicable laws or regulations, the
10 Division may revoke his or her license, suspend the licensee's
11 right to practice for a period not to exceed one year, place the
12 licensee on probation pursuant to section 2228 of the Code, order
13 that the licensee be publicly reprimanded, or take any other
14 appropriate disciplinary action.

15 8. Section 2234 of the Code provides that the Division
16 "shall take action against any licensee who is charged with
17 unprofessional conduct. In addition to other provisions of this
18 article, unprofessional conduct includes, but is not limited to,
19 the following:

20 (a) Violating or attempting to violate, directly or
21 indirectly, or assisting in or abetting the violation of, or
22 conspiring to violate, any provision of this chapter.

23 (b) Gross negligence.

24 (c) Repeated negligent acts.

25 (d) Incompetence.

26 (e) The commission of any act involving dishonesty or
27 corruption which is substantially related to the qualifications,

1 functions, or duties of a physician and surgeon.

2 (f) Any action or conduct which would have warranted
3 the denial of a certificate."

4 9. Section 2239, subdivision (a) of the Code provides
5 as follows:

6 "(a) The use or prescribing for or
7 administering to himself or herself, of any controlled
8 substance; or the use of any of the dangerous drugs
9 specified in Section 4211, or of alcoholic beverages,
10 to the extent, or in such a manner as to be dangerous
11 or injurious to the licensee, or to any other person or
12 to the public, or to the extent that such use impairs
13 the ability of the licensee to practice medicine safely
14 or more than one misdemeanor or any felony involving
15 the use, consumption, or self-administration of any of
16 the substances referred to in this section, or any
17 combination thereof, constitutes unprofessional
18 conduct. The record of the conviction is conclusive
19 evidence of such unprofessional conduct."

20 10. Section 2242, subdivision (a) of the Code provides
21 that "[p]rescribing, dispensing, or furnishing dangerous drugs as
22 defined in Section 4211 without a good faith prior examination
23 and medical indication therefor, constitutes unprofessional
24 conduct."

25 11. Under section 4211 of the Code, "dangerous drug"
26 means "any drug unsafe for self-medication, except veterinary
27

1 drugs which^{2/} are labeled as such, and includes the following:

2 (a) Any drug which bears the legend: 'Caution:
3 federal law prohibits dispensing without prescription' or words
4 of similar import.

5 (b) Any device which bears the statement: 'Caution:
6 federal law restricts this device to sale by or on the order of a
7 _____,' or words of similar import, the blank to be filled in
8 with the designation of the practitioner licensed to use or order
9 use of the device.

10 (c) Any other drug or device which by federal or state
11 law can be lawfully dispensed only on prescription or furnished
12 pursuant to Section 4240. . . ."

13 12. Section 2238 of the Code provides that "[a]
14 violation of any federal statute or federal regulation or any of
15 the statutes or regulations of this state regulating dangerous
16 ~~drugs or controlled substances constitutes unprofessional~~
17 conduct."

18 13. Section 11153, subdivision (a) of the Health and
19 Safety Code provides as follows:

20 "A prescription for a controlled substance shall only
21 be issued for a legitimate medical purpose by an
22 individual practitioner acting in the usual course of
23 his or her professional practice. The responsibility
24 for the proper prescribing and dispensing of controlled
25

26 2. In 1992, the introductory sentence and subdivisions
27 (a), (b) and (c) of section 4211 of the Code were amended to
substitute "that" for "which". (Stats. 1992, c. 1104, § 3,
effective Sept. 29, 1992.)

1 substances is upon the prescribing practitioner, but a
2 corresponding responsibility rests with the pharmacist
3 who fills the prescription. Except as authorized by
4 this division, the following are not legal
5 prescriptions: (1) an order purporting to be a
6 prescription which is issued not in the usual course of
7 professional treatment or in legitimate and authorized
8 research; or (2) an order for an addict or habitual
9 user of controlled substances, which is issued not in
10 the course of professional treatment or as part of an
11 authorized methadone maintenance program, for the
12 purpose of providing the user with controlled
13 substances, sufficient to keep him or her comfortable
14 by maintaining customary use."

15 14. Section 725 of the Code provides, in pertinent
16 part, that "[r]epeated acts of clearly excessive prescribing or
17 administering of drugs or treatment . . . as determined by the
18 standard of the community of licensees is unprofessional conduct
19 for a physician and surgeon"

20 15. Section 2261 of the Code provides that
21 "[k]nowingly making or signing any certificate or other document
22 directly or indirectly related to the practice of medicine or
23 podiatry which falsely represents the existence or nonexistence
24 of a state of facts, constitutes unprofessional conduct."

25 16. Section 118 of the Code provides, in pertinent
26 part, as follows:

27 "(b) The suspension, expiration, or

1 forfeiture by operation of law of a license issued by a
2 board in the department, or its suspension, forfeiture,
3 or cancellation by order of the board or by order of a
4 court of law, or its surrender without the written
5 consent of the board, shall not, during any period in
6 which it may be renewed, restored, reissued, or
7 reinstated, deprive the board of its authority to
8 institute or continue a disciplinary proceeding against
9 the licensee upon any ground provided by law or to
10 enter an order suspending or revoking the license or
11 otherwise taking disciplinary action against the
12 licensee on any such ground.

13 (c) As used in this section, 'board'
14 includes an individual who is authorized by any
15 provision of this code to issue, suspend, or revoke a
16 license, and 'license' includes 'certificate,'
17 'registration,' and 'permit.'"

18 CAUSES FOR DISCIPLINARY ACTION

19 I

20 Using, Prescribing or Administering

21 Controlled Substances or Dangerous Drugs

22 to Himself

23 17. Respondent is subject to disciplinary action for
24 engaging in unprofessional conduct by using, prescribing or
25 administering to himself controlled substances or dangerous drugs
26 in violation of sections 2234 [unprofessional conduct] and 2239,
27 subdivision (a) [misuse of controlled substances, dangerous drugs]

1 or alcohol] of the Code in conjunction with sections 11152
2 [nonconforming prescriptions], 11170 [controlled substances for
3 self use], 11171 [prescription, administration or furnishing
4 controlled substances], 11175 [possession of noncomplying
5 prescriptions; unlawfully obtained controlled substances], and
6 11180 [possession of controlled substances obtained by
7 nonconforming prescription] of the Health and Safety Code based
8 on the following circumstances:

9 A. Respondent has a history of drug abuse
10 and has received care or treatment at several medical
11 facilities for poly substance dependency, including for
12 addiction to Darvon. The facilities that he received
13 care or treatment for drug dependency included the
14 following:

15 (1) Daniel Freeman Marina Hospital in
16 Marina Del Rey - admitted around 1987 for about 2 to 3
17 weeks;

18 (2) Brotman Medical Center in Culver
19 City - admitted around October 1989 for approximately
20 21-day detoxification program;

21 (3) Bishop Gooden Recovery Home in
22 Pasadena - resided there around 1989 for about one
23 year;

24 (4) Rancho L'Abri in Dulzura - admitted
25 for one day around January 1990 and discharged the next
26 day;

27 (5) Rancho L'Abri in Dulzura - admitted

1 around August 1990;

2 (6) St. Joseph Medical Center in Burbank
3 - admitted around April 1991 for about a month;

4 (7) Daniel Freeman Marina Hospital in
5 Marina Del Rey - admitted around 1992 for an
6 approximately 7-day detoxification program;

7 (8) Rancho L'Abri in Dulzura - admitted
8 around June 1992 and discharged around July 1992.

9 B. Following Respondent's discharge from
10 such facilities after having received care or treatment
11 for chemical dependency, he has resumed prescribing,
12 using and administering to himself numerous controlled
13 substances or dangerous drugs. He left some of those
14 facilities against medical advice.

15 C. Over five years ago, Respondent began
16 using Darvon, a narcotic pain-reliever drug, and then
17 became addicted to it. He has taken doses of Darvon of
18 3000 mg. or more on a daily basis.

19 D. For several years, Respondent has
20 chronically prescribed several controlled substances
21 and dangerous drugs to himself by issuing the
22 prescriptions in his name or a false name or
23 misrepresenting that the prescriptions were for
24 "office use".

25 Prescription records reveal that during the
26 period from about 1987 to 1991, Respondent had
27 prescriptions for controlled substances and dangerous

1 drugs filled for himself, Patient P.M.^{3/}, P.B. or P.M.-
2 B., who was his wife, or "office use" at several
3 pharmacies.

4 E. The controlled substances and dangerous
5 drugs which Respondent prescribed and had filled at
6 Fair Oaks Pharmacy included, but were not limited to,
7 the following:

8 a. Chloral Hydrate 500 mg. Qty.

9	(1)	1-28-88	Office Use	50
10	(2)	2-12-88	Bahou, Steve M.D.	50
11	(3)	2-24-88	Office Use	50
12	(4)	3-8-88	Bahou, Steve M.D.	50
13	(5)	3-14-88	Office Use	50
14	(6)	3-24-88	Office Use	50
15	(7)	3-29-88	Bahou, Steve M.D.	50
16	(8)	4-8-88	Office Use	50
17	(9)	4-13-88	Office Use	50
18	(10)	4-30-88	Office Use	50
19	(11)	5-17-88	Bahou, Steve M.D.	50
20	(12)	5-31-88	Bahou, Steve M.D.	50
21	(13)	6-15-88	Office Use	50
22	(14)	8-19-88	Office Use	50

23 b. Clonidine 0.1 mg. Qty.

24 (1) 3-24-88 Office Use 50

25 ///

26
27 3. The full name of the patient is available to
Respondent upon a request for discovery.

1	c.	<u>Darvon-N 100 mg.</u>	<u>Qty.</u>
2	(1)	1-18-88 Bahou, Steve M.D.	100
3	(2)	1-28-88 Office Use	100
4	(3)	2-2-88 Office Use	100
5	(4)	2-12-88 Bahou, Steve M.D.	100
6	(5)	2-24-88 Office Use	100
7	(6)	3-8-88 Bahou, Steve M.D.	100
8	(7)	3-14-88 Office Use	100
9	(8)	3-18-88 Bahou, Steve M.D.	100
10	(9)	3-24-88 Office Use	100
11	(10)	3-29-88 Bahou, Steve M.D.	100
12	(11)	4-8-88 Office Use	100
13	(12)	4-13-88 Office Use	100
14	(13)	5-15-89 Office Use	100
15	(14)	5-19-89 Bahou, Steve M.D.	100
16	(15)	5-23-89 Office Use	100
17	(16)	6-5-89 Office Use	100
18	(17)	6-12-89 Bahou, Steve M.D.	30
19	(18)	6-28-89 Bahou, Steve M.D.	94
20	(19)	7-1-89 Office Use	30
21	(20)	7-28-89 Office Use	100
22	d.	<u>Darvon-N 65 mg.</u>	<u>Qty.</u>
23	(1)	1-23-88 Office Use	100
24	(2)	2-18-88 Bahou, Steve M.D.	100
25	(3)	3-3-88 Bahou, Steve M.D.	100
26	(4)	4-30-88 Office Use	100
27	(5)	5-17-88 Bahou, Steve M.D.	100

1	(6)	5-31-88	Bahou, Steve M.D.	100
2	(7)	6-15-88	Office Use	100
3	(8)	5-10-89	Bahou, Steve M.D.	50
4	e.	<u>Restoril 30 mg.</u>		<u>Qty.</u>
5	(1)	9-28-88	Office Use	30
6	(2)	10-14-88	Office Use	40
7	(3)	4-1-89	Office Use	30
8	(4)	5-23-89	Bahou, Steve M.D.	30
9	(5)	6-12-89	Bahou, Steve M.D.	30
10	(6)	7-1-89	Office Use	40
11	f.	<u>Tylenol #3</u>		<u>Qty.</u>
12	(1)	8-19-88	Office Use	100
13	g.	<u>Vicodin</u>		<u>Qty.</u>
14	(1)	9-3-88	Office Use	100
15	(2)	9-15-88	Bahou, Steve M.D.	100
16	(3)	9-21-88	Bahou, Steve M.D.	50
17	(4)	9-28-88	Office Use	100
18	(5)	10-1-88	Office Use	100
19	(6)	10-8-88	Office Use	50
20	(7)	10-11-88	Bahou, Steve M.D.	100
21	(8)	10-14-88	Office Use	100
22	(9)	10-19-88	Office Use	100
23	(10)	12-2-88	Office Use	100
24	(11)	12-14-88	Bahou, Steve M.D.	100
25	(12)	12-19-88	Office Use	100
26	(13)	3-13-89	Bahou, Steve M.D.	100
27	(14)	3-22-89	Office Use	100

1 (15) 3-30-89 Office Use 100

2 (16) 4-1-89 Office Use 50

3 F. The controlled substances and dangerous
4 drugs which Respondent prescribed and had filled at
5 Thrifty Drug Store included, but were not limited to,
6 the following:

7 a. Darvon-N 100 mg. Qty.

8 (1) 12-15-90 P.M. 40

9 (2) 3-25-91 P.M. 40

10 (3) 6-4-91 P.M. 40

11 b. Chloral Hydrate GX 500 mg. Qty.

12 (1) 12-15-90 P.M. 40

13 c. Clonidine SB .1 mg. Qty.

14 (1) 12-15-90 P.M. 60

15 d. Propoxyphene HCL LM 65 mg. Qty.

16 (1) 7-24-91 P.M. 60

17 G. The controlled substances and dangerous
18 drugs which Respondent prescribed and had filled at
19 Fifteen Sixty Pharmacy included, but were not limited
20 to, the following:

21 a. Robaxin 750 mg. Qty.

22 (1) 8-12-88 P.M.-B. 30

23 b. Restoril 350 mg. caps Qty.

24 (1) 8-12-88 P.M.-B. 30

25 c. Percodan Qty.

26 (1) 8-12-88 P.M.-B. 40

27 H. The controlled substance and dangerous

1 drug which Respondent prescribed and had filled at Cal-
2 Oaks Pharmacy included, but was not limited to, the
3 following:

4 a. Propoxyphene HCL 65 mg. cap Qty.
5 (1) 4-8-91 P.M. 60

6 I. The controlled substances and dangerous
7 drugs which Respondent prescribed and had filled at
8 Lucky Pharmacy included, but were not limited to, the
9 following:

10 a. Darvon-N 100 mg. tab Qty.
11 (1) 7-6-87 P.B. 30
12 (2) 7-27-87 P.B. 24
13 (3) 11-24-89 P.B. 24
14 (4) 12-6-89 P.B. 30

15 b. Methocarbamol 750 mg. tab Qty.
16 (1) 7-27-87 P.B. 12
17 (2) 8-22-88 P.B. 30

18 c. Chloral Hydrate Syrup Qty.
19 (1) 4-26-88 P.B. 600

20 d. Ampicillin 250 mg. cap Qty.
21 (1) 6-11-88 Bahou, Steve K. 40

22 e. Acetaminophen w/cod 30 mg. Qty.
23 (1) 8-22-88 P.B. 30

24 f. Lomotil tab Qty.
25 (1) 9-9-88 P.B. 20

26 g. Tetracycline HCL 250 mg. Qty.
27 (1) 9-9-88 P.B. 40

1	h. <u>Robitussin AC syrup</u>	<u>Qty.</u>
2	(1) 9-9-88 P.B.	120
3	i. <u>Tylenol w/cod 30 mg. tab</u>	<u>Qty.</u>
4	(1) 9-9-88 P.B.	30
5	j. <u>Erythromycin 250 mg. base</u>	<u>Qty.</u>
6	(1) 11-5-88 Bahou, Steve K.	30
7	k. <u>Glydeine Syrup</u>	<u>Qty.</u>
8	(1) 11-5-88 Bahou, Steve K.	240
9	l. <u>Hydrocodone w/apap tab</u>	<u>Qty.</u>
10	(1) 11-5-88 Bahou, Steve K.	30
11	m. <u>Tigan 250 mg. cap</u>	<u>Qty.</u>
12	(1) 3-18-89 P.B.	30
13	n. <u>Propoxyphene 65 mg. cap</u>	<u>Qty.</u>
14	(1) 3-18-89 P.B.	30
15	(2) 4-3-89 P.B.	35
16	o. <u>Diethylpropion HCL 75 mg.</u>	<u>Qty.</u>
17	(1) 3-18-89 P.B.	50
18	p. <u>Temazepam 30 mg. cap.</u>	<u>Qty.</u>
19	(1) 4-3-89 P.B.	30
20	q. <u>Robaxin 750 mg. tab</u>	<u>Qty.</u>
21	(1) 11-24-89 P.B.	24
22	(2) 12-6-89 P.B.	30

23 J. Chloral Hydrate, a depressant, is a
24 Schedule IV controlled substance under section 11057,
25 subdivision (d)(3)^{4/} of the Health and Safety Code and

26
27 4. In 1992, section 11057 of the Health and Safety Code
was amended to have Chloral hydrate listed under subdivision
(d)(4) of that section. (Stats. 1992, c. 616, § 1.)

1 a dangerous drug under section 4211 of the Code.

2 Chloral Hydrate is a sleep-inducing drug
3 which is indicated for relief of anxiety or tension and
4 insomnia. Such hypnotic drug is known to increase the
5 effects of other sedatives, sleep-inducing drugs,
6 tranquilizers, antihistamines, pain relievers and
7 narcotic drugs, to produce drug dependence and to have
8 the potential for being abused.

9 From about 1988 through 1990, Respondent
10 prescribed and had filled prescriptions for Chloral
11 Hydrate at least 16 times, together with prescriptions
12 for Darvon-N, Tylenol #3 and Clonidine.

13 K. Clonidine is a dangerous drug under
14 section 4211 of the Code. Such drug is indicated in
15 the treatment of hypertension. Clonidine is known to
16 enhance the central-nervous-system (CNS)-depressive
17 effects of alcohol, barbiturates or other sedatives.

18 From about 1988 through 1990, Respondent
19 prescribed and had filled prescriptions for Clonidine
20 at least 2 times, together with prescriptions for
21 Darvon-N and Chloral Hydrate.

22 L. Darvon (*propoxyphene hydrochloride*), a
23 narcotic drug, is a Schedule IV controlled substance
24 under section 11057, subdivision (c)(2) of the Health
25 and Safety Code and a dangerous drug under section 4211
26 of the Code.

27 Products containing Darvon, including Darvon-

1 N (*propoxyphene napsylate*), are indicated for the
2 relief of mild to moderate pain. Propoxyphene, a
3 centrally acting narcotic analgesic agent, is known to
4 cause drug dependence when taken in higher-than-
5 recommended doses over long periods of time.

6 Propoxyphene is also known to increase the
7 effects of sedatives, tranquilizers, muscle relaxants,
8 antidepressants, or other CNS depressants, including
9 alcohol.

10 The potency of Darvon-N is from two-thirds to
11 equal to that of codeine. The maximum recommended dose
12 of Darvon-N is about 600 mg. per day.

13 From about 1987 through 1991, Respondent
14 prescribed and had filled prescriptions for Darvon at
15 least 39 times, together with prescriptions for Chloral
16 Hydrate, Clonidine, Tigan, Restoril, Diethylpropion
17 HCL, and Robaxin (Methocarbamol).

18 M. Restoril (*temazepam*), a depressant, is a
19 Schedule IV^{5/} controlled substance under Title 21, Code
20 of Federal Regulations section 1308.14, subdivision
21 (c)(45) and a dangerous drug under section 4211 of the
22 Code.

23 Restoril, a hypnotic agent, is indicated for
24 the relief of insomnia. Restoril is known to be abused
25

26 5. In 1992, section 11057 of the Health and Safety Code
27 was amended to include Temazepam as a Schedule IV controlled
substance under subdivision (d)(23) of that section. (Stats.
1992, c. 616, § 1.)

1 and to produce drug dependence. Restoril is known to
2 enhance the effects of other drugs having known
3 hypnotic properties or CNS-depressants, including
4 alcohol.

5 From about 1988 through 1989, Respondent
6 issued and had filled prescriptions for Restoril at
7 least 8 times, together with prescriptions for Vicodin,
8 Darvon-N, Robaxin, and Percodan.

9 N. Percodan (oxycodone and aspirin), a
10 semisynthetic narcotic analgesic with aspirin, is a
11 Schedule II controlled substance under section 11055,
12 subdivision (b)(1)(N) of the Health and Safety Code and
13 a dangerous drug under section 4211 of the Code.

14 Percodan is indicated for the relief of
15 moderate to moderately severe pain. Percodan is known
16 to increase the effects of sedatives, sleep-inducing
17 drugs, tranquilizers, pain-relieving drugs, narcotic
18 drugs, or other CNS depressants, including alcohol, to
19 produce drug dependence of the morphine type, and to
20 have the potential for being abused.

21 Oxycodone is known to be similar to codeine
22 and methadone in that it retains at least half of its
23 analgesic activity when administered orally.

24 On or about August 12, 1988, Respondent
25 issued and had filled a prescription for Percodan,
26 together with prescriptions for Robaxin and Restoril.

27 O. Tylenol with Codeine (acetaminophen and

1 *codeine phosphate*) tablets, a narcotic drug, is a
2 Schedule III controlled substance under section 11056,
3 subdivision (e)(1) of the Health and Safety Code and a
4 dangerous drug under section 4211 of the Code.

5 Tylenol with Codeine tablets are indicated
6 for relief of mild to moderately severe pain. Codeine
7 is known to produce drug dependence of the morphine
8 type and to have the potential for being abused.

9 Tylenol No. 3 tablets contains 30 mg. of
10 codeine phosphate and 300 mg. of acetaminophen.

11 Around 1988, Respondent issued and had filled
12 prescriptions for Tylenol with Codeine tablets or
13 Tylenol #3 at least 2 times, together with
14 prescriptions for Chloral Hydrate, Lomotil, Robitussin
15 AC, and Tetracycline HCL.

16 P. Vicodin (*hydrocodone bitartrate* and
17 *acetaminophen*), a narcotic drug, is a Schedule III
18 controlled substance under section 11056, subdivision
19 (e) of the Health and Safety Code and a dangerous drug
20 under section 4211 of the Code.

21 Vicodin is indicated for relief of moderate
22 to moderately severe pain. Vicodin is known to cause
23 an additive depressant effect when combined with other
24 narcotic analgesics, antipsychotics, antianxiety
25 agents, or other CNS depressants, including alcohol, to
26 produce drug dependence from repeated administration of
27 such drug, and to have the potential for being abused.

1 From about 1988 through 1989, Respondent
2 issued and had filled prescriptions for Vicodin at
3 least 17 times, together with prescriptions for
4 Restoril, Erythromycin, and Glydeine syrup.

5 Q. Robaxin (*methocarbamol*), a muscle
6 relaxant, is a dangerous drug under section 4211 of the
7 Code.

8 Robaxin is indicated as adjunctive treatment
9 to rest, physical therapy, and other measures for the
10 relief of discomforts associated with acute, painful
11 musculoskeletal conditions. Robaxin is known to
12 increase the depressant effect of alcohol and other CNS
13 depressants.

14 From about 1988 through 1989, Respondent
15 issued and had filled prescriptions for Robaxin at
16 least 5 times, together with prescriptions for
17 Restoril, Percodan, Acetaminophen with codeine, and
18 Darvon-N.

19 R. Ampicillin, an antibiotic, is a dangerous
20 drug under section 4211 of the Code.

21 On or about June 11, 1988, Respondent issued
22 and had filled a prescription for Ampicillin.

23 S. Lomotil (*diphenoxylate hydrochloride with*
24 *atropine sulfate*), a narcotic drug, is a Schedule V
25 controlled substance under section 11058, subdivision
26 (c)(4) of the Health and Safety Code and a dangerous
27 drug under section 4211 of the Code.

1 Lomotil is indicated as adjunctive therapy
2 for treatment of diarrhea. Lomotil is known to
3 potentiate the action of barbiturates, tranquilizers
4 and alcohol, to produce drug dependence when
5 administered in high doses, and to have the potential
6 for being abused. High doses of Lomotil may cause
7 codeine-like subjective effects.

8 On or about September 9, 1988, Respondent
9 issued and had filled a prescription for Lomotil,
10 together with prescriptions for Tetracycline HCL,
11 Robitussin AC, and Tylenol with Codeine.

12 T. Tetracycline HCL, an antibiotic, is a
13 dangerous drug under section 4211 of the Code.

14 On or about September 9, 1988, Respondent
15 issued and had filled a prescription for Tetracycline
16 HCL, together with prescriptions for Lomotil,
17 Robitussin AC, and Tylenol with Codeine.

18 U. Robitussin A-C (*Robitussin and codeine*),
19 a narcotic drug, is a Schedule V controlled substance
20 under section 11058, subdivision (c)(1) of the Health
21 and Safety Code and a dangerous drug under section 4211
22 of the Code. This drug is indicated for temporarily
23 controlling coughs.

24 When Robitussin A-C is combined with
25 sedatives, tranquilizers and drugs used for depression,
26 such combination may cause greater drowsiness.

27 On or about September 9, 1988, Respondent

1 issued and had filled a prescription for Robitussin A-
2 C and prescriptions for Lomotil, Tetracycline HCL, and
3 Tylenol with Codeine.

4 V. Erythromycin Base, an antibiotic, is a
5 dangerous drug under section 4211 of the Code.

6 On or about November 5, 1988, Respondent
7 issued and had filled a prescription for Erythromycin
8 Base and prescriptions for Glydeine Syrup and
9 Hydrocodone w/apap.

10 W. Glydeine syrup, a narcotic drug, is a
11 Schedule V controlled substance under section 11058,
12 subdivision (c)(1) of the Health and Safety Code and a
13 dangerous drug under section 4211 of the Code.

14 Glydeine syrup is a generic drug which is
15 similar to Robitussin A-C as described in Paragraph
16 ~~17(U)~~ of this Accusation, which is incorporated herein
17 by reference.

18 On or about November 5, 1988, Respondent
19 prescribed and had filled a prescription for Glydeine
20 syrup, together with prescriptions for Erythromycin and
21 Hydrocodone w/apap.

22 X. Tigan (*trimethobenzamide hydrochloride*),
23 an antiemetic, is a dangerous drug under section 4211
24 of the Code.

25 Tigan is indicated for control of nausea and
26 vomiting. Tigan is known to increase the effects of
27 all other drugs with sedative effects or CNS

1 depressants, including alcohol.

2 On or about March 18, 1989, Respondent issued
3 and had filled a prescription for Tigan, together with
4 prescriptions for Propoxyphene and Diethylpropion HCL.

5 Y. Tenuate Dospan (*diethylpropion*
6 *hydrochloride*), a stimulant, is a Schedule IV
7 controlled substance under section 11057, subdivision
8 (f)(1) of the Health and Safety Code and a dangerous
9 drug under section 4211 of the Code.

10 Tenuate and Tenuate Dospan, anorectics and
11 amphetamine-like drugs, are indicated for treatment of
12 obesity as a short-term adjunct (i.e., a few weeks) in
13 a regimen of weight reduction based on caloric
14 restriction. Such drugs are contraindicated for
15 persons with a history of drug abuse. Diethylpropion
16 hydrochloride is known to produce drug dependence and
17 to have the potential for being abused.

18 It is known that concomitant use of alcohol
19 or other CNS-active drugs and Tenuate or Tenuate Dospan
20 may cause adverse interactions.

21 On or about March 18, 1988, Respondent issued
22 and had filled a prescription for Diethylpropion HCL,
23 together with prescriptions for Tigan and Propoxyphene.

24 Z. Respondent never provided any medical
25 care or treatment to his wife, Patient P.M., P.B. or
26 P.M-B., in which he prescribed for her Darvon,
27 Percodan, Restoril, Robaxin, Chloral Hydrate, Clonidine

1 or other similar controlled substances or dangerous
2 drugs. Respondent repeatedly issued and had filled
3 such prescriptions in his wife's name without a good
4 faith prior examination and medical indication or
5 legitimate medical purpose.

6 AA. Respondent's wife neither requested such
7 controlled substances or dangerous drugs from
8 Respondent nor requested him or anyone else to have
9 such prescriptions filled for her.

10 BB. Respondent's regular practice involved
11 the practice of psychiatry, particularly pediatric
12 psychiatry.

13 CC. Respondent was not acting in the usual
14 course of his profession when he issued and had filled
15 prescriptions for controlled substances and dangerous
16 drugs in his own name or wife's name or for "office
17 use."

18 18. Section 11152 of the Health and Safety Code
19 provides that "[n]o person shall write, issue, fill, compound, or
20 dispense a prescription that does not conform to this division
21 (i.e., Division 10--Uniform Controlled Substances Act)."

22 19. Section 11170 of the Health and Safety Code
23 provides that "[n]o person shall prescribe, administer, or
24 furnish a controlled substance for himself."

25 20. Section 11171 of the Health and Safety Code
26 provides that "[n]o person shall prescribe, administer, or
27 furnish a controlled substance except under the conditions and in

the manner provided by this division."

21. Section 11175 of the Health and Safety Code provides that "[n]o person shall obtain or possess a prescription that does not comply with this division, nor shall any person obtain a controlled substance by means of a prescription which does not comply with this division or possess a controlled substance obtained by such a prescription."

22. Section 11180 of the Health and Safety Code provides that "[n]o person shall obtain or possess a controlled substance obtained by a prescription that does not comply with this division."

II

Prescribing Drugs Without a

Legitimate Medical Purpose

23. Respondent is subject to disciplinary action for engaging in unprofessional conduct by prescribing controlled substances or dangerous drugs to himself, in his wife's name, and for "office use" without a legitimate medical purpose in violation of sections 2234 [unprofessional conduct] and 2238 [violation of drug statutes or regulations] of the Code and sections 11153 [controlled substances prescriptions], 11154 [prescription, administration or furnishing controlled substances, restrictions] and 11371 [prescription violations] of the Health and Safety Code based on the circumstances as alleged in Paragraph 17 of this Accusation, which is incorporated herein by reference.

24. Under section 11153 of the Health and Safety Code,

1 it is unlawful for any person to knowingly violate the
2 requirement that a prescription for a controlled substance only
3 be issued for a legitimate medical purpose by an individual
4 practitioner acting in the usual course of his or her
5 professional practice.

6 25. Section 11154, subdivision (a) of the Health and
7 Safety Code provides that "[e]xcept in the regular practice of
8 his or her profession, no person shall knowingly prescribe,
9 administer, dispense, or furnish a controlled substance to or for
10 any person or animal which is not under his or her treatment for
11 a pathology or condition other than addiction to a controlled
12 substance, except as provided in this division."

13 26. Under section 11371 of the Health and Safety Code,
14 it is unlawful for any person who "knowingly violate[s] any of
15 the provisions of Section 11153, 11154, 11155, or 11156 with
16 respect to (1) a controlled substance specified in subdivision
17 (b), (c), or (d) of Section 11055, or (2) a controlled substance
18 specified in paragraph (1) of subdivision (b) of Section 11056,
19 or (3) a controlled substance which is a narcotic drug
20 classified in Schedule III, IV, or V"

21 27. The controlled substances that Respondent
22 unlawfully prescribed which are enumerated under section 11371 of
23 the Health and Safety Code include drugs such as Percodan,
24 Darvon, Tylenol with Codeine or Tylenol #3, Vicodin, Lomotil,
25 Robitussin A-C, and Glydeine syrup.

26 ///

27 ///

1 III

2 Prescribing Dangerous Drugs Without
3 Prior Examination and Medical Indication

4 28. Respondent is subject to disciplinary action for
5 engaging in unprofessional conduct by prescribing, dispensing or
6 furnishing dangerous drugs to himself, in his wife's name, and
7 for "office use" without a good faith prior examination and
8 medical indication in violation of sections 2234 [unprofessional
9 conduct] and 2242, subdivision (a) [prescribing, dispensing or
10 furnishing dangerous drugs without prior examination and medical
11 indication] of the Code based on the circumstances as alleged in
12 Paragraph 17 of this Accusation, which is incorporated herein by
13 reference.

14 IV

15 Excessive Prescribing or Administering
16 of Drugs or Treatment

17 29. Respondent is subject to disciplinary action for
18 engaging in unprofessional conduct by committing repeated acts of
19 clearly excessive prescribing of drugs or treatment in violation
20 of sections 725 [excessive prescription or administration of
21 drugs or treatment] and 2234 [unprofessional conduct] of the Code
22 based on the circumstances as alleged in Paragraph 17 of this
23 Accusation, which is incorporated herein by reference.

24 V

25 Making False Statements

26 30. Respondent is subject to disciplinary action for
27 engaging in unprofessional conduct by knowingly making or signing

1 prescriptions for controlled substances and dangerous drugs which
2 contain false statements in violation of sections 2234
3 [unprofessional conduct], 2261 [false documents] and 4390
4 [forgery of prescription] of the Code in conjunction with
5 sections 11157 [false or fictitious prescription], 11173 [fraud,
6 deceit, misrepresentation], 11174 [false name or address], 11368
7 [forged or altered prescriptions] and 11371 [prescription
8 violations] of the Health and Safety Code based on the
9 circumstances as alleged in Paragraphs 17 through 29 of this
10 Accusation, which are incorporated herein by reference.

11 31. Section 2261 of the Code provides that
12 "[k]nowingly making or signing any certificate or other document
13 directly or indirectly related to the practice of medicine or
14 podiatry which falsely represents the existence or nonexistence
15 of a state of facts, constitutes unprofessional conduct."

16 32. Under section 4390 of the Code, "[e]very person
17 who signs the name of another, or of a fictitious person, or
18 falsely makes, alters, forges, utters, publishes, passes, or
19 attempts to pass, as genuine, any prescription for any drugs is
20 guilty of a forgery"

21 33. Section 11157 of the Health and Safety Code
22 provides that "[n]o person shall issue a prescription that is
23 false or fictitious in any respect."

24 34. Section 11173 of the Health and Safety Code
25 provides in pertinent part as follows:

26 "(a) No person shall obtain or attempt to
27 obtain controlled substances, or procure or attempt to

1 procure the administration of or prescription for
2 controlled substances, (1) by fraud, deceit,
3 misrepresentation, or subterfuge; or (2) by the
4 concealment of a material fact.

5 (b) No person shall make a false statement
6 in any prescription, order, report, or record, required
7 by this division. . . ."

8 35. Section 11174 of the Health and Safety Code
9 provides that "[n]o person shall, in connection with the
10 prescribing, furnishing, administering, or dispensing of a
11 controlled substance, give a false name or false address."

12 36. Section 11368 of the Health and Safety Code makes
13 it unlawful for "[e]very person who forges or alters a
14 prescription or who issues or utters an altered prescription, or
15 who issues or utters a prescription bearing a forged or
16 fictitious signature for any narcotic drug, or who obtains any
17 narcotic drug by any forged, fictitious, or altered prescription,
18 or who has in possession any narcotic drug secured by a forged,
19 fictitious, or altered prescription"

20 VI

21 Commission of Acts Involving

22 Dishonesty or Corruption

23 37. Respondent is subject to disciplinary action for
24 engaging in unprofessional conduct by committing acts of
25 dishonesty or corruption which are related to the qualifications,
26 functions, or duties of his profession as a psychiatrist in
27 violation of sections 2234, subdivisions (a) and (e) of the Code

1 based on the circumstances as alleged in Paragraphs 17 through 36
2 of this Accusation, which are incorporated herein by reference.

3 VII

4 Illegally Obtaining or Possessing

5 Controlled Substances and Dangerous Drugs

6 38. Respondent is subject to disciplinary action for
7 unlawfully obtaining or possessing controlled substances and
8 dangerous drugs without valid prescriptions in violation of 2234
9 [unprofessional conduct] and 2238 [violation of drug statutes or
10 regulations] of the Code in conjunction with sections 11175
11 [possession of noncomplying prescriptions; unlawfully obtained
12 controlled substances], 11180 [possession of controlled substance
13 obtained by nonconforming prescription] and 11350 [possession of
14 designated controlled substances] of the Health and Safety Code
15 based on the circumstances as alleged in Paragraphs 17 through 37
16 of this Accusation, which are incorporated herein by reference.

17 39. Section 2238 of the Code provides that "[a]
18 violation of any federal statute or federal regulation or any of
19 the statutes or regulations of this state regulating dangerous
20 drugs or controlled substances constitutes unprofessional
21 conduct."

22 40. Section 11175 of the Health and Safety Code
23 provides that "[n]o person shall obtain or possess a prescription
24 that does not comply with this division, nor shall any person
25 obtain a controlled substance by means of a prescription which
26 does not comply with this division or possess a controlled
27 substance obtained by such a prescription."

41. Section 11180 of the Health and Safety Code provides that "[n]o person shall obtain or possess a controlled substance obtained by a prescription that does not comply with this division."

42. Under section 11350, subdivision (a) of the Health and Safety Code, it is unlawful for any person, except as provided otherwise in the division, to possess any controlled substance specified in subdivision (b), (c), or (g) of Section 11055 or any controlled substance classified in Schedule III, IV, or V which is a narcotic drug without a valid written prescription by a physician or other authorized person.

43. The controlled substances that Respondent unlawfully obtained and possessed included drugs such as Percodan, Darvon, Tylenol with Codeine or Tylenol #3, Vicodin, Lomotil, Robitussin A-C, and Glydeine syrup.

PRAYER

WHEREFORE, Complainant requests that a hearing be held in this matter and that following such hearing, the Division issue a decision:

1. Suspending or revoking Physician's and Surgeon's
Certificate No. A 29428 issued to Kamil Emil Bahou, M.D.; and

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2. Taking such other action as the Division deems proper.

DATED: October 1, 1993

Dir. Brett

DIXON ARNETT
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Oct 1, 1993
BY [Signature] ANALYST

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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

No. D-5472

KAMIL EMIL BAHOU, M.D.)
aka STEVE BAHOU and K. STEVE BAHOU)
P. O. Box 50047)
Pasadena, California 91105)

OAH No. L-63519

**FIRST SUPPLEMENTAL AND
AMENDED ACCUSATION**

Physician's and Surgeon's)
Certificate No. A 29428)

Respondent.)

Complainant Dixon Arnett, Executive Director of the
Medical Board of California (hereinafter referred to as "the
Board"), further alleges as follows:

PARTIES

44. Complainant, Dixon Arnett, is the Executive
Director of the Medical Board of California. Complainant brings
this First Supplemental and Amended Accusation solely in his
official capacity as Executive Director of the Board.

45. On October 1, 1993, an Accusation was filed in

1 Case No. D-5472 against Respondent Kamil Emil Bahou, M.D., aka
2 Steve Bahou and K. Steve Bahou (Respondent). A copy of the
3 Accusation is attached hereto as "Appendix 1" and incorporated
4 herein by reference.

5 ADDENDUM TO JURISDICTION

6 46. This First Supplemental and Amended Accusation is
7 brought pursuant to Business and Professions Code sections 2004,
8 2220, 2227 and 2234^{1/}. Such sections of the Code provide that
9 the Division of Medical Quality (hereinafter referred to as "the
10 Division"), a division of the Medical Board of California, is
11 authorized to take disciplinary action against any licensed
12 physician and surgeon who is found guilty of violating any of the
13 provisions of the Medical Practice Act (Bus. & Prof. Code, § 2000
14 et seq.), the regulations relating to the practice of medicine
15 (Cal. Code of Regs., tit. 16, § 1300 et seq.), or other
16 applicable laws or regulations.

17 CAUSES FOR DISCIPLINARY ACTION

18 47. Paragraphs 17 through 43 of the Accusation, which
19 are incorporated herein by reference, are amended to include
20 S.J.^{2/}, which is the name of Respondent's friend, as a name used
21 by Respondent to obtain controlled substances and dangerous drugs
22 to use and administer to himself.

23 48. The controlled substances and dangerous drugs
24 which Respondent prescribed and had filled in the name of S.J.

25
26 1. Except as otherwise indicated, all statutory
references are to the Business and Professions Code.

27 2. The full name of this person is available to
Respondent upon a request for discovery.

1 included, but were not limited to, the following:

2 a. AMC Pharmacy

3	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
4	(1) 3-4-91	Darvon 65 mg.	50
5	(2) 4-18-91	Propoxyphene HCL 65 mg.	30
6	(3) 4-18-91	Propoxyphene HCL 65 mg.	10

7 b. Thrifty Drug Store

8	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
9	(1) 10-10-90	Propoxyphene HCL GG 65 mg.	35

10 c. Lucky Pharmacy

11	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
12	(1) 7-18-89	Propranolol 40 mg.	40
13	(2) 7-18-89	Tenuate Dospan 75 mg.	30
14	(3) 7-16-91	Tenuate Dospan 75 mg.	40

15 49. These controlled substances and dangerous drugs
16 were prescribed by Respondent using S.J.'s name as the patient
17 without such prescriptions being related to any medical care and
18 treatment provided to S.J. and without a good faith prior
19 examination, medical indication or a legitimate medical purpose.

20 RECOVERY OF INVESTIGATION

21 AND ENFORCEMENT COSTS

22 50. Section 125.3, subdivision (a) of the Code
23 provides that the Division may request the administrative law
24 judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the
26 reasonable costs of the investigation and enforcement of the
27 case.

1 Section 125.3, subdivision (c) of the Code defines
2 "reasonable costs of investigation and enforcement" as follows:

3 "A certified copy of the actual costs, or a good
4 faith estimate of costs where actual costs are not
5 available, signed by the entity bringing the
6 proceeding or its designated representative shall
7 be prima facie evidence of reasonable costs of
8 investigation and prosecution of the case. The
9 costs shall include the amount of investigative
10 and enforcement costs up to the date of the
11 hearing, including, but not limited to, charges
12 imposed by the Attorney General."

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held
15 in this matter and that following such hearing, the Division
16 issue a decision:

17 1. Suspending or revoking Physician's and Surgeon's
18 Certificate No. A 29428 issued to Kamil Emil Bahou, M.D.;

19 2. Ordering Respondent to pay to the Division
20 reasonable costs of the investigation and prosecution of this
21 case; and

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23 ///

24 ///

25 ///

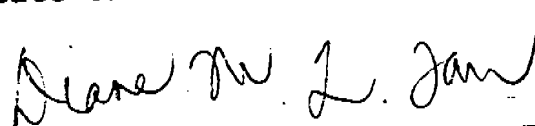
26 ///

27 ///

1 3. Taking such other action as the Division deems
2 proper.

3 DATED: February 18, 1995.

4 DANIEL E. LUNGREN
5 Attorney General of the
6 State of California

7 

8 DIANE M. L. TAN
9 Deputy Attorney General

10 Attorneys for Complainant
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